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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,482	02/12/2001	Thomson Alexander	965-3	9493

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EXAMINER

MELWANI, DINESH

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 10/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,482

Applicant(s)

ALEXANDER, THOMSON

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 5 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8/5/02. 6) ☐ Other: _____

DETAILED ACTION

Acknowledgement is made of applicant's submission of:

Amendment A filed on 8/5/02

The aforementioned item has been noted and officially inserted into the application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 8/5/02 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 8, 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thinnes (U.S. Patent No. 914,528) in view of Miller (U.S. Patent No. 1,840,561) in further view of Dominquez (U.S. Patent No. 6,126,211). Thinnes discloses an access opening closure device substantially as claimed, wherein said device comprises a housing (1) defining a receptacle and being adapted to be mounted adjacent an access opening (2) in a support structure (16). Thinnes also includes a top cover (13) movably supported on the housing, the top cover being movable

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from a first position covering a top opening of the housing to a second position uncovering the top opening of the housing, an access door movably supported on the housing, the access door being movable from a first position uncovering a rear opening of the housing to a second position covering the rear opening of the housing. Thinnes discloses an engagement member (19) but does not disclose said engagement member engaging a plurality of recesses on the access door such that said door can be selectively locked in a plurality of different positions. Miller discloses a receptacle that teaches the use of an access door (22), wherein said door is slidable and further teaches holding said door in any number of adjusted positions, wherein said positions include opened, closed, and partially-opened, see col. 3, lines 8-11. Furthermore, Miller also teaches the use of latches (31) to retain the top cover in a first position. Dominquez discloses a locking device, wherein said device teaches the use of a plurality of apertures on a door to enable selective locking of said door in a plurality of positions, see Fig. 15 and Abstract. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Miller and Dominquez, in regards to the use of a sliding door, a lock on the top cover, the teachings of stopping said door in an adjusted position, and the use of a locking device to further facilitate the teachings of Miller, to modify Thinnes in a manner such a more secure locking device is provided on the access door enabling the access door to be locked in the open and closed position and to ensure retention of the top cover in a closed position to maintain cleanliness.

4. Claims 2, 3, 4, ~~5~~⁶, 7, 12, 13, 14, ~~15~~¹⁶ and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thinnes (U.S. Patent No. 914,528), Miller (U.S. Patent No. 1,840,561), and Dominquez (U.S. Patent No. 6,126,211) in view of Wolgamot (U.S. Patent No. 6,378,769).

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Thinnes, Miller, and Dominquez disclose an access opening closure device substantially as claimed but do not disclose a bracket assembly. Wolgamot discloses a pass through delivery device that teaches the use of a bracket assembly (50) secured to the housing, the bracket assembly being configured to mount the rear opening of the housing about an access opening in a door. Wolgamot's bracket assembly further includes a top (A), a bottom (B) and a side (C) bracket, each of the brackets being positioned about the rear of the opening. Furthermore, Wolgamot's top and bottom brackets each include a concavity formed therein, the concavities together defining a guide track, the access door (20) being slidably supported for movement between its first and second positions on the guide track. As it concerns claim 7, the use of a sliding door in place of a swinging door inasmuch as the references disclose these elements as art recognized equivalents, it would have been obvious to one of ordinary skill in the art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Wolgamot, in regards to a bracket assembly, to provide to provide Thinnes, as modified by Miller and Dominquez, with a more rigid mounting assembly.

5. Claims 2, 3, 6, 10, 12, 13, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thinnes (U.S. Patent No. 914,528), Miller (U.S. Patent No. 1,840,561), and Dominquez (U.S. Patent No. 6,126,211) in view of Gabel (U.S. Patent No. 5,921,191). Thinnes, Miller, and Dominquez discloses an access opening closure device substantially as claimed, wherein said device includes a top cover pivotably secured to the housing, but do not include a bracket assembly secured to the housing. Gabel discloses a pass-through device that teaches use

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of a bracket assembly (i.e. frame) (2), wherein said bracket assembly consists of a top, bottom, and a side bracket and is configured to mount the rear opening of a housing about an access opening. Furthermore, Gabel also teaches the use of a transparent door (16B). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Gabel, in regards to the use of a bracket assembly and a transparent door, to provide Thinnes, as modified by Miller and Dominquez, with a more rigid mounting assembly and with the ability to observe the interior of said receptacle.

6. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thinnes (U.S. Patent No. 914,528), Miller (U.S. Patent No. 1,840,561), and Dominquez (U.S. Patent No. 6,126,211) in view of Clark (U.S. Patent No. 5,799,589). Thinnes, Miller, and Dominquez disclose an access opening closure device substantially as claimed but do not disclose said device's housing being constructed from stainless steel. Clark discloses a deal tray, wherein said tray is fabricated from stainless steel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Clark, in regards to the use of steel, to construct the device of Thinnes, as modified by Miller and Dominquez, from a stronger material, wherein said material can withstand rust and similar corrosion.

Allowable Subject Matter

7. Claims 5 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the

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indication of allowable subject matter: Claims ²4, ¹⁰5, ¹⁰7, ¹⁰14, 15, and ¹⁰17 are allowable over the prior art of record because the teachings taken as a whole do not show or render obvious the combination set forth, including a bracket assembly having a slot formed therein adjacent one end of the guide track.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM
October 8, 2002


ROBERT J. SANDY
PRIMARY EXAMINER